

REMARKS

The above-identified application has been reviewed in light of the Office Action mailed on May 15, 2007. By the present amendment, claim 1 has been amended. It is respectfully submitted that the pending claims are fully supported by the specification, introduce no new matter, and are allowable over the prior art.

The applicants would like to thank Examiner Yabut for the courtesy extended to the applicants' representative, Dana A. Brussel, Esq., during a personal interview conducted on June 27, 2007. Examiner Yabut and the applicants' representative discussed independent claim 1 in view of the cited references. The applicants have incorporated Examiner Yabut's helpful suggestions into independent claim 1.

In the Office Action, claims 1, 6, and 7 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,204,541 to Kapitanov ("Kapitanov"). The Office Action averred that Kapitanov discloses an applicator for attaching fasteners to body tissue a rotator cooperating with an actuator and including a longitudinal groove extending along at least a portion of the length of the rotator. Further, the Office Action asserted that Kapitanov discloses a nose piece attached to a terminal end, and a distal portion and a proximal portion releasably secured together.

As presently amended, claim 1 recites an applicator for attaching fasteners to body tissue including, *inter alia*, a rotator cooperating with an actuator, "the rotator including a longitudinal groove extending along at least a portion thereof, the groove configured to receive a portion of a fastener."

Contrary to the applicator recited in claim 1, Kapitanov relates to a surgical instrument

having a hollow body, a tubular needle, a cylindrical rod, and a cylindrical sleeve. The cylindrical rod of Kapitanov is disposed within the hollow body and defines an annular space between the cylindrical rod and the hollow body. Kapitanov fails to disclose or suggest a rod having a longitudinal groove thereon. Thus, Kapitanov fails to anticipate or suggest an applicator including, *inter alia*, a rotator "including a longitudinal groove extending along at least a portion thereof" as recited in amended claim 1. It is respectfully submitted that the rejection of the Office Action has been overcome and that claim 1 is in condition for allowance. Since claims 6 and 7 depend from claim 1, it is respectfully submitted that these claims are also in condition for allowance.

Additionally, the Office Action rejected claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of U.S. Patent No. 4,596,350 to Smith et al. ("Smith"). According to the Office Action, Kapitanov discloses the devices recited in claims 2 and 3 except for a lock/clip indicator and a load spring. The Office Action stated that Smith discloses a lock/clip indicator for engaging a plurality of fasteners from the applicator and a load spring for applying longitudinal forces against the lock/clip indicator.

As previously discussed, Kapitanov does not disclose or suggest an applicator having a "rotator including a longitudinal groove extending along at least a portion thereof" as recited in claim 1. Adding the lock/clip indicator and load spring from Smith to Kapitanov fails to disclose or suggest the applicator recited in claim 1. Smith fails to disclose any additional features that, in combination with Kapitanov, would suggest the applicator recited in claims 2 and 3. Since claims 2 and 3 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of U.S. Patent No. 5,433,721 to Hooven et al. (“Hooven”). The Office Action stated that Kapitanov discloses the devices recited in claims 4 and 5 except for a thread form contained in an interior of the terminal end adapted to engage the plurality of fasteners and an interlock spring fixedly retained in the interior of the terminal end.

As previously discussed, Kapitanov does not disclose or suggest an applicator having a “rotator including a longitudinal groove extending along at least a portion thereof” as recited in claim 1. Adding the helical thread form of Hooven to Kapitanov fails to disclose or suggest the applicator recited in claim 1. Hooven fails to disclose or suggest any additional features that, in combination with Kapitanov, would suggest the applicator recited in claims 4 and 5. Since claims 4 and 5 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of U.S. Patent No. 5,100,420 to Green et al. (“Green”). According to the Office Action, Kapitanov discloses the device recited in claim 8 except for a distal portion being disposable and the proximal portion being reusable. The Office Action asserted that Green discloses a distal portion being disposable and the proximal portion being reusable.

As discussed above, Kapitanov does not disclose or suggest an applicator having a “rotator including a longitudinal groove extending along at least a portion thereof” as recited in claim 1. Adding the distal and proximal portions of Green to Kapitanov fails to disclose or suggest the applicator recited in claim 1. Green fails to disclose or suggest any additional features that, in combination with Kapitanov, would suggest the applicator recited in claim 8.

Since claim 8 depends from claim 1, it is respectfully submitted that this claim is in condition for allowance and the rejection of the Office Action has been overcome.

Claims 9 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of U.S. Patent No. 5,607,436 to Pratt et al. ("Pratt"). The Office Action asserted that Kapitanov discloses the devices recited in claims 9 and 14 except for a lever having a first end, a midsection, a second end, a lead screw, and a nut driver. The Office Action stated that Pratt discloses a lever having a first end, a midsection, a second end, a lead screw, and a nut driver.

As discussed hereinabove, Kapitanov does not disclose or suggest an applicator having a "rotator including a longitudinal groove extending along at least a portion thereof" as recited in claim 1. Adding the lever from Pratt to Kapitanov fails to disclose or suggest the applicator recited in claim 1. Pratt fails to disclose or suggest any additional features that, in combination with Kapitanov, would suggest the applicator recited in claims 9 and 14. Since claims 9 and 14 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Pratt. The Office Action noted that Kapitanov discloses the device recited in claim 11 except for a lever having a midsection extension. The Office Action further stated that Pratt discloses a lever having a midsection extension.

As discussed above, Kapitanov does not disclose or suggest an applicator having a "rotator including a longitudinal groove extending along at least thereof" as recited in claim 1. Adding the lever from Pratt to Kapitanov fails to disclose or suggest the applicator recited in

claim 1. Pratt fails to disclose or suggest any additional features that, in combination with Kapitanov, would suggest the applicator recited in claim 11. Since claim 11 depends from claim 1, it is respectfully submitted that this claim is in condition for allowance and the rejection of the Office Action has been overcome.

Claims 12, 13, 16 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of Pratt. According to the Office Action, Kapitanov discloses the devices recited in claims 12, 13, 16, and 18 except for gear teeth, a spring loaded pawl, and a ratchet mechanism. The Office Action asserted that Pratt discloses gear teeth formed within the interior of a handle, a spring loaded pawl pivotally attached to the midsection extension and adapted to engage the gear teeth, the releasable engagement means being a ratchet mechanism.

As discussed hereinabove, Kapitanov does not disclose or suggest an applicator having a “rotator including a longitudinal groove extending along at least a portion thereof” as recited in claim 1. Adding gear teeth, a spring loaded pawl, and a ratchet mechanism from Pratt to Kapitanov fails to disclose or suggest the applicator recited in claim 1. Pratt fails to disclose or suggest any additional features that, in combination with Kapitanov, would suggest the applicator recited in claims 12, 13, 16, and 18. Since claims 12, 13, 16, and 18 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office Action has been overcome.

Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov in view of U.S. Patent No. 5,487,500 to Knodel et al. (“Knodel”). The Office Action stated that Kapitanov discloses the device recited in claim 17 except for a mid-section extension with a plurality of teeth formed thereon. The Office Action asserted that Knodel discloses a mid-

section extension formed with a plurality of teeth.

As previously discussed, Kapitanov does not disclose or suggest an applicator having a “rotator including a longitudinal groove extending along at least a portion thereof” as recited in claim 1. Adding the mid-section extension from Knodel to Kapitanov fails to disclose or suggest the applicator recited in claim 1. Knodel fails to disclose or suggest any additional features that, in combination with Kapitanov, would suggest the applicator recited in claim 17. Since claim 17 depends from claim 1, it is respectfully submitted that this claim is in condition for allowance and the rejection of the Office Action has been overcome.

Claims 10 and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kapitanov. The Office Action asserted that Kapitanov discloses the devices recited in claims 10 and 15 except for the lead screw being a high helix lead screw and that it would have been obvious to provide a high helix lead screw.

As discussed above, Kapitanov does not disclose or suggest a “rotator including a longitudinal groove extending along at least a portion thereof” as recited in claim 1. Adding a high helix lead screw as asserted in the Office Action fails to suggest the device recited in claim 1. Since claims 10 and 15 depend from claim 1, it is respectfully submitted that these claims are in condition for allowance and the rejection of the Office action has been overcome.

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In view of the foregoing, reconsideration of the application and allowance of claims 1-18 is earnestly solicited. Should the Examiner desire a telephonic interview to resolve any outstanding matters, the Examiner is sincerely invited to contact the undersigned at (631) 501-5713.

Respectfully submitted,

A handwritten signature in cursive script, reading "Dana A. Brussel", written over a horizontal line.

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